

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROGER ELLERBE,	§
	§ No. 451, 2008
Defendant Below,	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware,
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID 0009022190
	§
Plaintiff Below,	§
Appellee.	§

**ORDER**

This 21st day of April 2009, it appears to the Court that, on March 19, 2009, the Clerk issued a notice to appellant to show cause why the appeal should not be dismissed pursuant to Supreme Court Rule 29(b) for appellant's failure to diligently prosecute his appeal by not filing his opening brief and appendix in this matter. Appellant has failed to respond to the notice to show cause within the required ten-day period; therefore, dismissal of this action is deemed to be unopposed.

NOW, THEREFORE, IT IS HEREBY ORDERED, pursuant to Supreme Court Rules 3(b) and 29(b), that the within appeal is DISMISSED.

BY THE COURT:

/s/ Randy J. Holland  
Justice